UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

REALTIME DATA LLC d/b/a IXO
 	
        Plaintiff,
 	
    v.
 	
HEWLETT PACKARD ENTERPRISE CO., HP ENTERPRISE SERVICES, LLC, and SILVER PEAK SYSTEMS, INC.,
 	
        Defendant.
	Case No. 6:16-CV-00086-RWS-JDL
	
	JURY TRIAL DEMANDED

DECLARATION OF LAUREN E. WHITTEMORE IN SUPPORT OF
SILVER PEAK SYSTEMS, INC.'S MOTION TO SEVER AND TRANSFER VENUE

I, Lauren E. Whittemore, hereby declare as follows:

1.   I am an attorney with the law firm of Fenwick & West LLP, counsel to Defendant Silver Peak Systems, Inc. ("Silver Peak"), and am admitted to the Eastern District of Texas. I make the following statements based upon my personal knowledge or on information and belief where indicated and, if called upon to testify, would testify competently to the matters contained herein.

2.   Attached as **Exhibit A** is a true and correct copy of Plaintiff Realtime Data LLC's Second Amended Preliminary Disclosure of Asserted Claims and Infringement Contentions to Hewlett Packard Enterprise Co. and HP Enterprise Services, LLC, served on August 15. 2016.

3.   Attached as **Exhibit B** is a true and correct printout of Russ August & Kabat's webpage reflecting two office locations in in Los Angeles, California, and Woodland Hills, California, as accessed on August 19, 2016.

4.   Attached as **Exhibit D** is a true and correct copy of a Google Maps search for directions between Silver Peak's headquarters and the San Jose courthouse for the United States District Court for the Northern District of California.

5.   Attached as **Exhibit C** are true and correct copies of LinkedIn profiles for John Burns and Marc Trimuschat showing that both are still located in the San Francisco Bay Area.

6.   Based on Silver Peak's investigation to date, Silver Peak is likely to rely on U.S. Patent Nos. 5,467,087 and 5,150,430 to support its invalidity defenses in the above-captioned case. Attached as **Exhibit E** are true and correct copies of U.S. Patent Nos. 5,467,087 and 5,150,430, naming Ke-Chiang Chu as inventor.

7. Attached as **Exhibit F** is a true and correct printout of a Whitepages.com listing for Ke-Chiang Chu, showing an address in Saratoga, California within the Northern District of California. Upon information and belief, Dr. Chu could not be compelled to testify in Texas.

8. Attached as **Exhibit G** is a true and correct copy of an excerpt from an *inter partes* reexamination request for U.S. Patent No. 7,415,530, listing Dr. Chu's '430 patent as prior art.

9. Based on Silver Peak's investigation to date, Silver Peak is likely to rely on a system called the Bay Area Research Network System to support its invalidity defenses in the above-captioned case. Based upon information and belief, Dr. Randy Katz developed this prior art system at the University of California Berkeley. Attached as **Exhibit H** is a true and correct copy of "The Bay Area Research Wireless Access Network (BARWAN)," authored by Randy Katz, dated January 1996.

10. Attached as **Exhibit I** is a true and correct copy of Dr. Katz's faculty profile on U.C. Berkeley's website, as accessed on August 19, 2016.

11. Attached as **Exhibit J** is a true and correct printout of a Whitepages.com listing for Randy Katz, showing an address in San Francisco, California within the Northern District of California. Upon information and belief, Dr. Katz could not be compelled to testify in Texas.

12. Based on Silver Peak's investigation to date, Silver Peak is likely to rely on U.S. Patent No. 5,870,036 to support its invalidity defenses in the above-captioned case. Attached as **Exhibit K** is a true and correct copy of U.S. Patent No. 5,870,036, naming Joy Aloysius Thomas as inventor.

13.   Attached as **Exhibit L** is a true and correct copy of a LinkedIn profile for Joy Thomas, showing that he is still located in the San Francisco Bay Area. Upon information and belief, Mr. Thomas could not be compelled to testify in Texas.

14.   Based on Silver Peak's investigation to date, Silver Peak is likely to rely on a system called the IBM 3494/3495 Tape Library Dataserver, which supports the IBM 3490 and 3590 Tape Subsystem and Magstar Tape Drive, to support its invalidity defenses in the above-captioned case. Based upon information and belief, this system was designed and developed by IBM's International Technical Support Organization in San Jose, California. Attached as **Exhibit M** is a true and correct excerpt of "Magstar and IBM 3590 High Performance Tape Subsystem Technical Guide," authored by the IBM International Technical Support Organization, San Jose Center, dated November 1996. Upon information and belief, these IBM products were sold as early as August 8, 1995, and additional documents and witnesses regarding this system are still located in San Jose, California and could not be compelled to testify in Texas.

15.   Attached as **Exhibit N** is a true and correct copy of Realtime Data's P.L.R. 3-1 Infringement Contentions, as served on Silver Peak on August 15, 2016.

16.   Attached as **Exhibit O** is a true and correct copy of Silver Peak's VX Virtual WAN Optimization Software datasheet

17.   Attached as **Exhibit P** is a true and correct printout of HPE's website, detailing the HPE AllianceOne Partner Program, as accessed on August 19, 2016.

18.   Attached as **Exhibit Q** are true and correct printouts of Hewlett Packard Enterprise Co. website, showing the accused Hewlett Packard products in this case: ProLiant and Integrity Servers, and the 5400zl and 8200zl switches.

19.   A calculation of distance using the search engine http://maps.google.com indicates that Santa Clara, California is approximately 1800 miles away from Tyler, Texas. Attached hereto as **Exhibit R** is a true and correct copy of a Google Maps search for directions between Silver Peak's headquarters in Santa Clara, California and this Court in Tyler, Texas.

20.   Attached as **Exhibit S** is a true and correct copy of a Google Flights search for flights between San Francisco, California, and Tyler, Texas.

21.   Attached as **Exhibit T** is a true and correct copy of a Google Flights search for flights between New York, New York, and Tyler, Texas.

22.   Attached as **Exhibit U** is a true and correct copy of a Google Flights search for flights between New York, New York and San Francisco, California.

23.   Attached as **Exhibit V** is a true and correct excerpt from the March 2016 Federal Court Management Statistics–Comparison Within Circuit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on this 9th day of September, 2016 in San Francisco, California.

/s/ Lauren E. Whittemore
Lauren E. Whittemore

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per Local Rule CF-5(a)(3) on September 9, 2016.

/s/ Michael J. Sacksteder
Michael J. Sacksteder